

**TOWN OF DUCK  
TOWN COUNCIL  
REGULAR MEETING  
January 6, 2016**

The Town Council for the Town of Duck convened at the Duck Meeting Hall at 7:00 p.m. on Wednesday, January 6, 2016.

COUNCIL MEMBERS PRESENT: Mayor Don Kingston; Mayor Pro Tempore Monica Thibodeau; Councilor Nancy Caviness; Councilor Chuck Burdick; and Councilor Jon Britt.

COUNCIL MEMBERS ABSENT: None.

OTHERS PRESENT: Town Manager Christopher Layton; Police Chief John Cueto; Fire Chief Donna Black; Director of Community Development Joseph Heard; Town Attorney Robert Hobbs; Public Information Officer Denise Walsh; Administrative Assistant Bethany Conery; and Town Clerk Lori Ackerman.

OTHERS ABSENT: None.

Mayor Kingston called the meeting to order at 7:03 p.m. He asked Councilor Nancy Caviness to lead the Pledge of Allegiance. Mayor Kingston led the moment of silence.

**PUBLIC COMMENTS**

Mayor Kingston opened the floor for public comments. He asked that any comments regarding the public hearings be held off.

There being no one wishing to speak, Mayor Kingston closed the time for public comments.

**CONSENT AGENDA**

**Minutes from the November 18, 2015, Mid-Month Meeting; Minutes from the December 2, 2015, Regular Meeting and Budget Amendments**

Councilor Caviness moved to approve the Consent Agenda as presented.

Motion carried 5-0.

**PUBLIC HEARINGS**

**Public Hearing on Ordinance 16-01, an Ordinance Amending Section 156.002 of the Zoning Ordinance of the Town of Duck, North Carolina, by Clarifying the**

## **Definition of “Building Height” and Adding a Definition for “Average Finished Grade”**

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Robert Hobbs was recognized to speak. Town Attorney Hobbs stated that the public hearing was open. He asked Director of Community Development Joe Heard to give a presentation.

Director Head stated that at its meeting on May 6, 2015, the Council authorized the Planning Board to review the Town’s current definition and standards for measuring building height. He stated that after several months of review and discussion, the Planning Board developed a proposal to clarify the definition of building height in Section 156.002 of the Zoning Ordinance. He explained that the clarification necessitated the addition of a definition for the term “Average Finished Grade”. He stated that the Board’s recommendation did not make substantive changes to the existing building height standards, but were intended to clarify how the existing standards should be applied in different situations.

Director Heard stated that the Planning Board recommended approval of Ordinance 16-01 and staff was recommending approval as well.

Town Attorney Hobbs asked Director Heard if he wished to mention the comment he had about the change in definition. Director Heard stated that Town Attorney Hobbs had a recommendation to improve the wording in the ordinance. He stated that the language read as follows: “The average finished grade will be calculated by taking the average of the actual or measured elevations at the four corners of a structure.” Mayor Kingston clarified that it was not included in the draft ordinance the Council had in front of them. Director Heard stated that it was in a subsequent draft ordinance.

Mayor Pro Tempore Thibodeau asked if it came up during the Planning Board’s discussion that some homes did not have just four corners. She asked if it was subject to staff’s interpretation of what made the most sense. Director Heard stated that she was correct.

Town Attorney Hobbs asked if members of the Planning Board wished to make a presentation. There were none.

Town Attorney Hobbs asked if any members of the public wished to address the proposal. There were none.

There being no one else wishing to speak, Town Attorney Hobbs closed the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that when considering a text amendment, at least four votes would be needed to approve the ordinance on a first read.

Mayor Pro Tempore Thibodeau thought the Planning Board did a great job with the assistance of staff and it seemed that it was clarifying things. She stated that she didn’t see any objection to the ordinance as proposed. She pointed out that it looked like the language that Town Attorney Hobbs had suggested was included in the draft ordinance.

Councilor Burdick moved to adopt Ordinance 16-01 as presented.

Mayor Kingston clarified that the suggested language was in the draft ordinance. Town Attorney Hobbs stated that it was not. He suggested the language read as follows: "The average finished grade will be calculated by taking the average of the actual or measured elevations at the four corners of a structure."

Councilor Burdick amended his motion to include the new language.

Motion carried 5-0.

**Public Hearing on CUP 15-004, an Application by Forlano Properties, LLC, Property Owner, for a Conditional Use Permit to Expand the Existing Duck Deli Restaurant by Establishing an Outdoor Seating and Entertainment Area with up to 18 Seats at 1221 and 1223 Duck Road**

Mayor Kingston turned the meeting over to Town Attorney Hobbs.

Town Attorney Hobbs stated that the Council would be sitting as a quasi-judicial body for the public hearing, meaning that they will sit as a court and must make its decision based upon competent material and substantive evidence that will be presented during the course of the hearing. He stated that anyone wishing to give testimony would have to give it while under oath with the applicant afforded due process rights including the right to present evidence, examine and cross-examine witnesses. He asked that anyone wishing to testify come forward to be sworn in.

Town Clerk Lori Ackerman proceeded to swear in the applicants and staff for the public hearing.

**The following persons were sworn to provide testimony during the hearing: Joe Heard, Ron Forlano and Ken Forlano.**

Town Attorney Hobbs opened the evidentiary portion of the hearing. He stated that Director Heard would give an overview.

Director Heard stated that the applicant was requesting approval of a Conditional Use Permit to add a seasonal outdoor dining/entertainment area for Duck Deli in the yard between the restaurant at 1223 Duck Road and the adjoining residence at 1221 Duck Road. He stated that the proposal included the following:

1. Addition of three picnic tables seating up to 18 people in an outdoor dining/entertainment area on the lawn to the south of the building. The proposed dining/entertainment area is approximately 1,000 square feet in size.
2. Reduction in the interior seating for the restaurant from 44 seats to 37 seats.
3. Installation of an 84 square foot wooden deck against the retaining wall near the rear of the property for use as an entertainment stage.

4. Addition of two Turfstone parking spaces in the front yard of the residence.
5. Abandonment of the existing septic system for the residence and connection of the residence to the existing commercial septic system serving the restaurant.

Director Heard noted that the hearing was properly advertised on December 20, 2015 and January 3, 2016 in *The Coastland Times* and December 23 and 30, 2015 in the *Outer Banks Sentinel*. He added that public hearing notices were sent to the applicant and all adjoining property owners on December 14, 2015. He stated that public hearing signs were posted on the property on December 10, 2015 and the hearing was posted on the Town's website on December 10, 2015 as well as posted copies at Town Hall on December 11, 2015.

Director Heard stated that the subject property included two previously separate properties at 1221 and 1223 Duck Road, which have been recently combined into a single parcel of land that was over 25,000 square feet in size. He noted that both properties were zoned Village Commercial with the one containing the restaurant originally zoned Village Commercial while the residential was rezoned in 2012 in association with a prior proposed development proposal.

Director Heard stated that the Duck Deli Restaurant was approximately 1,700 square feet in size and contains seating for 44 customers. He added that the adjoining residence was 18,048 square feet in size and was presently occupied by the family of the owners.

Director Heard stated that in 2012, the Council granted approval of a Conditional Use Permit for a project that would have involved combining the two properties and demolishing both in order to build a new 44-seat restaurant and installation of a 17 space parking area. He noted that the applicants combined the two properties but were unable to proceed with the approved project. He explained that in 2015, the applicants instead completed significant renovations to the existing restaurant building that included the installation of a new septic system in the lawn area to the south of the restaurant.

Director Heard stated that the proposed use was considered an expansion of the existing restaurant. He noted that a restaurant is a Conditional Use in the Village Commercial District and the outdoor seating and entertainment area as proposed was permitted as part of a restaurant, subject to certain conditions. He stated that the proposed project will change the existing lot coverage of the site by adding a Turfstone expansion of the driveway, a small walkway extension, and addition of two parking spaces with curbing in front of the residence at 1221 Duck Road. He added that some existing concrete would be removed from the residential driveway and replaced with Turfstone. He noted that the lot coverage maximum in the Village Commercial District was 60% and the estimated lot coverage for this property would be approximately 36.3%.

Director Heard pointed out that the rear setback of the existing restaurant encroached into the required setback; however, it was a legal conforming situation and would be allowed to remain as the applicants were not proposing to change any of the building setbacks.

Director Heard stated that, with regard to the access to the property, the existing residential driveway was 11 feet in width and would be expanded to 20 feet in width in order to accommodate the proper ingress and egress. He added that the new entrance would include a 10 foot concrete apron to the edge of Duck Road, followed by a stretch of Turfstone connecting to the parking spaces at the front and rear of the property.

Director Heard stated that the existing parking requirements for the site were for 20 parking spaces, which included the restaurant and residential portion of the property. He stated that presently, there were 16 parking spaces available, meaning that it was nonconforming in terms of the number of parking spaces. He stated that in reviewing the standards related to the outdoor dining/entertainment areas, there was a requirement for the proposal that the outdoor dining area shall not increase the seating capacity of the restaurant by more than 25% or seat more than 18 people. He noted that the applicants were only proposing 18 seats. He explained that there were 44 existing seats, increasing it by 25% and would bring it up to 55. He stated that the applicant was proposing 18 new outdoor seats, but were also proposing to reduce the number of indoor seats by seven, which was reflected on the Health Department permit. He stated that the total number of seats in the proposal would be 55 which was consistent with the maximum 25% seating capacity increase and met the criteria with no additional parking required.

Director Heard stated that staff received written comments from two abutting property owners, expressing concern about potential noise levels from the entertainment activities, asking for a curfew for the entertainment activities and concern over increased traffic.

Director Heard stated that the Planning Board voted 3-0 (Member Forlano was recused from voting and Member Cofield abstained from voting) to recommend approval of the proposed Conditional Use Permit with the following conditions:

1. Lot coverage calculations on the site plan must be corrected to include the existing gravel parking prior to consideration by Duck Town Council.
2. The two parking spaces in front of the residence are to be designed for staff parking.
3. The applicants must construct a five foot wide sidewalk in the specified location, according to the design specifications prepared by VHB and replace the existing pea gravel parking area with permeable paving by the end of January 2017.
4. The applicants must submit an as-built survey documenting all of the site improvements at the completion of the work described in Condition 3.

5. The applicants must obtain approval from the Community Development Department prior to installation of any exterior lighting, which must comply with the Town's lighting standards and may require a building permit.
6. Any signage to be added must comply with the Town's Zoning Ordinance and be permitted by the Community Development Department prior to installation.
7. Entertainment activities must comply with all applicable Town standards, including the noise ordinance.

Mayor Kingston stated that looking at the impact from the preliminary pedestrian plan; he assumed that the sidewalk was specified by VHB in front of the Duck Deli Restaurant. He asked what the impact would be in front of the house with respect to the potential sidewalk and vegetation. Director Heard stated that the sidewalk in front of the house would be the responsibility of the Town or NCDOT as implementation of the pedestrian plan moved forward in the future. Mayor Kingston assumed that the 55 seats would serve 18 people outside and 37 people inside. Director Heard stated he was correct. Mayor Kingston asked how that would be enforced, especially with regard to inclement weather. He thought it was confusing. Director Heard stated that the applicants would not be permitted to increase the indoor seating as both the Health Department and the Town put limitations on it. He added that the outdoor seating could not be transferred inside. Mayor Kingston clarified that the Planning Board did not deal with it or include it in the CUP draft. Director Heard stated that it was part of the applicant's proposal and what was permitted was consistent with the applicant's proposal. He noted that the applicant proposed 37 indoor seats and 18 outdoor seats. Mayor Kingston pointed out that in the Conditional Use Permit, the Town was authorizing up to 18 seats for the outdoor area. He wasn't sure all of the seating should be contained in the CUP. Director Heard stated that Council could make the clarification.

Councilor Burdick thought the applicant could put three picnic tables outside; take one away and increase the indoor seating during the off season as it could be more useful to them. He stated that if the applicants did that, it would change the parking calculation and they would exceed the number of parking spaces that they would provide. He noted that it took the applicant from a nonconforming position to a conforming one. He clarified that the applicant could not do that. Director Heard stated he was correct. Councilor Burdick thought the issue was that the applicant could not trade outside seating for inside seating because of the parking situation. Director Heard stated he was correct.

Mayor Kingston asked if the Town gave the applicants 12 months to do the parking area and the sidewalk, what the enforcement was if it was not done. He asked if the CUP would be canceled. Director Heard stated that it would no longer be valid as the applicant would be out compliance with one of the conditions.

Mayor Pro Tempore Thibodeau clarified that the reason that staff and the Planning Board were recommending January 2017 for the parking was due to time. She asked if it was

approved, then next summer the existing parking situation would be there but the outdoor seating with the idea that in the fall they would put in the new permeable parking spaces plus the five foot sidewalk. Director Heard stated that the Planning Board made that recommendation because the applicant had requested more time.

Mayor Kingston pointed out that three of the four Planning Board members voted in favor of the Conditional Use Permit. He asked if the one Planning Board member didn't vote due to reservations that did not come forward in the Planning Board recommendation. Director Heard stated that there wasn't a specific reason only that the member had abstained from voting.

Councilor Burdick noted that the noise issue keeps coming up. He added that the Town was faced with most restaurants wanting to have outdoor seating with music. He wondered if it was worth considering looking at the noise ordinance again for the future.

Town Attorney Hobbs asked the applicants to make a presentation.

Ron Forlano of 1221 Duck Road was recognized to speak. Mr. Forlano stated that the Planning Board was very thorough in the work they do. He stated that with respect the application, the Planning Board tore the issue apart. He stated that the project started in July 2015, when they were asking for five picnic tables. He stated that the Planning Board had five meetings with the application in front of them as well as this being the second Council meeting. He stated that it changed from five picnic tables to three in order to seat 18 people. He noted that it was approved by the Planning Board and he was now asking Council to approve the application.

Ron Forlano stated that he and his sons have jumped through many hoops over the past six months at a great expense to them. He added that it was their suggestion to delay the issue of paving the parking lot because it was a project that would cost approximately \$60,000-\$65,000. He explained that to accomplish what they wished to accomplish with this project was costing them a lot of money but knew it was something that Council or the Planning Board were not concerned about that. He stated that he was delaying the parking lot until 2017 because they had other ideas and things they wanted to do such as putting on a new roof. He stated that everything that has to be done could not be done at once. He stated that they were asking Council to work with them as they would work with the Town.

Councilor Burdick understood that trying to fix the front parking lot was an expensive proposition. He thought the general plan was excellent to significantly improve the situation given that the parking could not be at the rear of the building. He wondered if Mr. Forlano would consider getting the sidewalk in as an initial start to help the situation as it would eliminate some of the safety hazards. Ron Forlano stated that in order to put the sidewalk in, he would have to cut three feet off the current pavement and then put in a five foot concrete sidewalk. He added that the net gain from the stones to the street was two feet. He didn't think that it would prevent the stones from getting onto the street and was not worth the expenditure. He felt that in order to do it right, he would like to put in

permeable pavers and remove the gravel completely. He stated that he had six pallets of pavers delivered a few years back in order to remove the gravel but was told by the Town's former Planning Director that he couldn't do it due to lot coverage for nonconformities. Councilor Burdick thought it was a good idea to do it all at once but due to the total cost, he understood why Mr. Forlano wanted to defer it. He reiterated that he thought it would be a good improvement to make and have a good visual impact if he could put the sidewalk in. He asked Ron Forlano to consider it. Ron Forlano stated that the sidewalk apron was put upon him at the Planning Board's fourth meeting. He added that it wasn't mentioned until that meeting when another issue came up. He stated that he would pay for it, which was 180 linear feet that the Town would not have to pay for with their pedestrian plan.

Mayor Kingston asked if there would be full food service outside. Ron Forlano stated that it would, but the food would be served on paper plates. He pointed out that, with regard to the seating inside during inclement weather, this time of year they would not be using the outside seating, making it a non-issue.

Town Attorney Hobbs asked if any members of the public wished to give a presentation or comment on the application. There were none.

There being no one else wishing to speak, Town Attorney Hobbs closed the evidentiary portion of the public hearing and turned the meeting back over to Mayor Kingston. He reminded Council that a vote of the majority – three Council members – would be needed to approve the application. He added that Council had the option to approve the Conditional Use Permit by adopting it including the findings of fact and proposed conditions. He believed there was a discussion about the possibility of addressing a change to the indoor seating.

Mayor Kingston suggested that Council put a caveat in the Permit that the restaurant has been reduced from 44 to 37 seats with the total seating being 55. Councilor Burdick agreed.

Councilor Britt appreciated the improvements that were made over the years and agreed with Councilor Burdick about the applicant installing the pavement. He understood the cost situation, but thought there would be some cost savings by doing everything together. He thought this was the first application where the inside seats were traded for outside seats and was concerned about loopholes.

Mayor Pro Tempore Thibodeau thought the Planning Board and staff have come up with something that seemed very workable. She thought the outdoor entertainment blended well with the character of Duck and agreed that the topography of the property was beneficial. She stated that she was in favor of approving the Conditional Use Permit.

Mayor Kingston stated that he agreed with Council's comments and appreciated the applicants working with the Town.

Mayor Kingston moved to approve Conditional Use Permit 15-004 including the findings of fact and proposed conditions with the caveat of reducing the capacity of the restaurant from 44 to 37 seats inside.



Councilor Burdick stated that the Planning Board spent a lot of time on the issue and felt that the applicants worked very well with the Board to come to a final agreement. He felt it would be a nice addition to the Town.

Motion carried 5-0.

### **OLD BUSINESS/ITEMS DEFERRED FROM PREVIOUS MEETINGS**

#### **Update by Dave Facenda, President, Duck Merchants Association, on the Association's Activities in 2015**

Dave Facenda of the Duck Merchants Association was recognized to speak. Mr. Facenda gave a short update on the Association's activities to Council and the audience.

Mayor Kingston thanked Dave Facenda for his update.

#### **Overview of the Paul F. Keller Meeting Hall Audio Visual Improvements**

Town Manager Layton stated that shortly after the Meeting Hall was completed in 2011, audio-visual equipment was purchased to allow for the recording of Council meetings as well as the use of presentation equipment such as the monitors, microphones and speakers. He explained that since the installation, the system has been plagued with problems but staff and consultants have managed to keep it operational. He noted that recently, the system experienced a complete failure and it has not been able to be corrected.

Town Manager Layton stated that among the issues with the audio-video equipment was the failure of the video capture system and the input control systems. He pointed out that as a result of these failures, staff had to request the assistance of Sound Advice to troubleshoot and provide suggestions for improvements to the Town's audio-visual system. He stated that Sound Advice works with the Towns of Kill Devil Hills and Nags Head on their systems. He stated that after a thorough review, it was recommended that the Town switch to a Tricaster video system and make other improvements to the existing system. He noted that the improvements will cost \$44,200.69 and that the Town received a grant from the Government Access and Education Channel in the amount of \$10,000 for the improvements, but the remaining amount will be funded through the Town's Contingency.

Public Information Officer Denise Walsh was recognized to speak. Public Information Officer Walsh stated that the system was constantly having issues that were causing staff and Shoshin Technologies a lot of time to try to fix it.

Administrative Assistant Beth Conery was recognized to speak. Administrative Assistant Conery stated that it has been quite a while that staff has been dealing with the audio-visual system issues. She stated that the Town was able to get a grant from the Government Access Channel to help offset some of the cost for the new system. She stated that Sound Advice works with two of the other towns and are familiar with the

Tricaster system. She explained that the Tricaster system would allow the audio and video to stream simpler than in the past. She stated that things have gone wrong in the past and with the replacement system, the turnaround time will be much better. She hoped to establish a working relationship with Sound Advice and they would come out and replace any of the items that need to be replaced. She thought Sound Advice was a great company to work with and the Tricaster system had the capability to live stream.

Mayor Pro Tempore Thibodeau clarified that the Town could sell the surplus equipment once the new equipment was in place and working. Administrative Assistant Conery stated that Sound Advice would look at the existing equipment, run diagnostics on it and determine whether it could be sold as surplus. Mayor Pro Tempore Thibodeau stated that, at the bottom of the quote in Council's packet, it noted that there still may be some bad equipment that would need to be replaced and Sound Advice will not know what needs to be replaced until they return to the Meeting Hall and reinstall the working AMX and that the quote did not cover any other faulty equipment. She stated that the language seemed loose. Administrative Assistant Conery stated that the old system had the AMX software, which was the switcher presentation screens as well as the programming itself. She added that in an attempt to not have to completely take everything out, the thought was that it could be reused. She stated that Sound Advice took the software with them and ran tests on it and would rewrite it to make it work in a more user friendly way.

Town Manager Layton stated that Sound Advice ran a diagnostic on the AMX system. He explained that there are two major components that are used in the Meeting Hall – one was the video production software/hardware, which had a catastrophic failure. He stated that staff was proposing to replace it with the Tricaster, which was more expensive but is one that has been tried and tested. He stated that the AMX allowed staff to move several presentations on the monitors and also suffered a catastrophic failure. He added that Sound Advice ran a diagnostic test on that and felt they could fix it with software updates to get it work again. He noted that staff had no reason to not believe that it was going to work but it was a key component that if Sound Advice comes in and it fails, it would have to be replaced. He stated that, previously, staff was taking a piece of the Tricaster unit and piece-mailing everything else to make it work. He added that there were so many moving pieces that continually went bad, making staff get to the point where something had to be done.

Councilor Burdick clarified that the audio system would be upgraded as well. Town Manager Layton stated that one of the key pieces was to make sure that the equipment picks up everything Council and staff say on to the recording software. He stated that a piece of it was also making sure the audience could hear everything. He added that staff has completed some things to try to reconfigure the speakers but have not had anyone look at it to try to address it. He stated that Sound Advice would be taking an initial look at things and see if they could reconfigure it so there was better sound quality.

Mayor Kingston asked if the cameras would be swapped out. Administrative Assistant Conery stated that they would. She stated that two cameras would have to be purchased since the Tricaster does not work with the existing cameras.

Councilor Britt stated he was looking forward to having the equipment working correctly.

Mayor Kingston asked if the two desk monitors would continue to be used. Administrative Assistant Conery stated that only one would be needed. Mayor Kingston asked if the equipment was upgradeable. Administrative Assistant Conery stated that it was.

Mayor Pro Tempore Thibodeau moved to authorize the Town Manager to enter into an agreement with Sound Advice for the audio-visual improvements as presented.

Motion carried 5-0.

### **NEW BUSINESS**

#### **Discussion/Consideration of the Appointments to the Town of Duck Grievance Panel**

Town Manager Layton stated that the terms of the members of the Grievance Panel expired on January 5, 2016. He stated that it was necessary to either re-appoint the current members or appoint new members. He noted that all current members indicated that they wished to remain on the panel.

Councilor Britt moved to re-appoint Howard Neren, Tom O'Brien, Karen Power, Ed Sadler and Allan Beres to the Grievance Panel for a three year term to expire on January 5, 2019.

Motion carried 5-0.

#### **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN ATTORNEY**

Town Attorney Hobbs stated that he has been working with Director Heard and the Planning Board on a list of proposed prohibited uses that were discussed at Council's December 2, 2015 meeting. He stated that, based on the Supreme Court's decision, the Town needs to beef up its zoning ordinance to include a list of prohibited uses and not rely strictly on a statement that if the use was not permitted, then it was prohibited.

Town Attorney Hobbs stated that the Town was down to one property with regard to the easements for the beach nourishment project. He added that they continue to have conversations with the property owner to develop another revision to the easement, which he hoped that the property owner will consider. He stated that in the meantime, they were moving forward with the condemnation process. He stated that Town Manager Layton signed the letter that went out earlier in the day to the property owner, stating that this was the 30-day notice before a complaint would be filed no earlier than February 5, 2016, assuming that the easement is not received. He explained that if the easement was received prior to that date, and it was satisfactory to the Town, it would be recorded and

the process would stop. He stated that as soon as the action was filed, the interest would be acquired immediately and the Town would have completed the process.

Town Attorney Hobbs thanked all of the property owners that have been diligent and patient while working with the Town in getting the easements signed as well as working with staff on the language and making suggestions and changes to make the easements agreeable to the property owners.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM THE TOWN MANAGER**

### **Update on Departmental Activities**

Fire Chief Donna Black was recognized to speak. Fire Chief Black gave a brief overview of the past month's fire activities to Council and the audience.

Police Chief John Cueto was recognized to speak. Police Chief Cueto gave a brief overview of the past month's activities to Council and the audience.

Director Heard gave a brief overview of the past month's permit activities to Council and the audience.

Public Information Officer Walsh gave a brief overview of the past month's activities to Council and the audience.

### **Update on Beach Nourishment Project**

Town Manager Layton stated that things will be heating up quickly over the next couple of months. He stated that the Town received its CAMA Major Permit and is now in the process of having its Federal agreement reviewed with a final decision expected soon. He stated that the bids are out on the street and a pre-bid meeting was held on December 15, 2015, which was well attended by the dredge contractors, and he expected to have a competitive bid process with bids due on January 21, 2016.

Town Manager Layton stated that they continue to work with the Army Corps of Engineers local FRF and expected to have the agreement imminently. He explained that the Corps of Engineers needed to have an internal biological statement and obtaining that documentation has taken longer than anticipated. He expected it to be coming forward with no issues. He anticipated having an agreement to bring before Council no later than March to finalize the use of the property for staging. He stated that he has had discussions with the local chief of the FRF and he is on board with the project and working with him to get the agreement finalized.

Town Manager Layton stated that once the bids come in, things will start to heat up with regard to the application with the Local Government Commission for the financing. He added that the Carters are continuing to complete a lot of background work, but nothing

could move forward until the bids are in hand. He stated that once the bids come in, he expected to have the application sent in for the LGC to review no later than March, giving an April timeframe for approval which fit in with the start of the project.

Town Manger Layton stated that, with regard to the profile surveys, there hasn't been a lot of action but all of the preliminary work has been started. He noted that the holidays slowed things down but the updated profile surveys should be coming along over the next month.

### **Annual Retreat March 8<sup>th</sup> and 9<sup>th</sup>**

Town Manager Layton stated that the annual Retreat was March 8 and 9, 2016. He stated that he has some ideas of items that will be presented. He asked Council if they had additional ideas that they wanted to get on the agenda, that they get them to him. He felt that the Retreat would be a good time to discuss the noise ordinance. He stated that there will be in-depth departmental updates; a thorough overview of the Capital Improvements Project and finances; and an update on the pedestrian plan with a discussion on phasing and brainstorming about funding if the Town wanted to proceed without NCDOT funding. He stated that he asked Jesse McNinch of the FRH and Robert Fearing of the Audubon Society to come in and give presentations on sea level rise.

### **Financial Statement for December FY 2016**

Town Manager Layton reviewed the financial statements with Council and the audience. He went on to review the beach activities report with Council and the audience.

### **MAYOR'S AGENDA**

Mayor Kingston stated that he has his Mayor's meeting tentatively scheduled for January 19, 2016. He thanked Town staff for a very successful Yuletide Celebration. He stated that he was looking forward to the dedication of the Meeting Hall on January 15, 2016 and the Celebration of Community on January 22, 2016.

### **COUNCIL MEMBERS' AGENDA**

Mayor Pro Tempore Thibodeau thanked Town staff for a great Yuletide Celebration. She thought the Town had a strong year for events in 2015. She stated that she witnessed two fire calls recently – one in her neighborhood and one at a house that she manages. She stated that she was impressed with the response and professionalism.

Councilor Burdick stated that he was looking forward to an exciting year. He noted that he would be out of Town for the month of February and would miss the February 3, 2016 meeting. He stated that he was looking forward to the Council Retreat in March.

Councilor Caviness stated that 2015 was a great year and felt that this year was starting off just as well. She stated that she was looking forward to the Meeting Hall dedication on January 15, 2016.

Councilor Britt stated that he was honored to serve on Council again. He added that he will miss the Meeting Hall dedication. He stated that there was a definite emphasis on Duck with regard to parents and small children thanks to the efforts of the Town and the Duck Merchants Association.

**OTHER BUSINESS**

**Additional Public Comments**

Mayor Kingston opened the floor for public comments. There being no one wishing to speak, he closed the time for public comments.

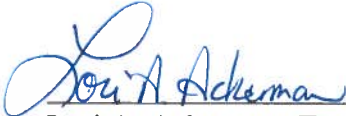
Mayor Kingston noted that the next meeting will be the Regular Meeting on Wednesday, February 3, 2016 at 7:00 p.m.

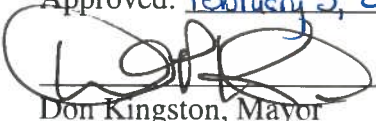
**ADJOURNMENT**

Councilor Britt moved to adjourn the meeting.

Motion carried 5-0.

The time was 9:40 p.m.

  
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Lori A. Ackerman, Town Clerk

Approved: February 3, 2016  
  
\_\_\_\_\_  
Don Kingston, Mayor

